

**CHAPTER NO. 650****HOUSE BILL NO. 1192****By Representatives Buck, Pinion, Coleman****Substituted for: Senate Bill No. 1134****By Senator Cooper**

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 32, relative to expungement of records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-32-101(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(a)

(1)

(A) All public records of a person who has been charged with a misdemeanor or a felony shall, upon petition by that person to the court having jurisdiction in such previous action, be removed and destroyed without cost to such person if:

(i) The charge has been dismissed;

(ii) A no true bill was returned by a grand jury;

(iii) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

(iv) The person was arrested and released without being charged.

(B) A person applying for the expungement of records because the charge or warrant was dismissed in any court as a result of the successful completion of a pre-trial diversion program pursuant to §§ 40-15-102 – 40-15-107, shall be charged the appropriate court clerk's fee pursuant to 8-21-401 for destroying such records.

(C) A person applying to a court after October 1, 1998 for the expungement of such persons records following the successful completion of a judicial diversion program authorized by § 40-35-313 shall be charged a fee of fifty dollars (\$50.00) and such fee shall be transmitted and used in the manner set out in § 40-35-313(d)(2).

(D) Notwithstanding the provisions of subdivisions (B) and (C), the records of a person who successfully completes a pre-trial diversion

program pursuant to §§ 40-15-102 – 40-15-107 or a judicial diversion program pursuant to § 40-35-313, shall not be expunged pursuant to this section if the offense for which the person was diverted was a sexual offense as defined by § 40-39-202(16), or a violent sexual offense as defined by § 40-39-202(24).

(E) A person shall not be entitled to the expungement of such person's records in a particular case if the person is convicted of any offense or charge, including a lesser included offense or charge.

SECTION 2. Tennessee Code Annotated, Section 40-32-101(a)(6)(C) is amended by deleting the language “; provided such fee shall not exceed twenty-five dollars (\$25.00)”.

SECTION 3. Tennessee Code Annotated, Section 40-32-101(e)(3) is amended by deleting the language:

a verdict of not guilty was returned by a jury; or

and substituting instead the following language:

A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 27, 2006**

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 12<sup>th</sup> day of May 2006**

  
PHIL BREDESEN, GOVERNOR